

June 24, 2013

Nayda Cantabrana
Quintana for Bell City Council 2013
P O Box 1314
Cudahy, CA 90201

Re: Your Request for Advice
Our File No. A-13-076

Dear Ms. Cantabrana:

This letter responds to your request for advice regarding the campaign reporting provisions of the Political Reform Act (the "Act").¹

Please note that our jurisdiction only extends to the requirements of the Act and we, therefore, do not offer advice on other provisions of law that also may be applicable to your question. In this regard, since your question involves issues concerning potential gambling and these types of issues are not within the Act's jurisdiction, we offer no opinion on the applicability, if any, of laws that regulate gambling activities. We suggest that you consult private counsel on those issues. Our advice below only concerns the applicability of the Act's campaign reporting provisions to the proposed event.

QUESTION

What provisions of the Act apply to the Quintana for Bell City Council 2013 committee if a supporter hosts in his or her home a poker fundraiser for the committee in which tickets would be sold for attendance at the event and one-half of the proceeds from the tickets would be returned to the attendees in the form of prizes and the other one-half retained by the committee as campaign funds?

CONCLUSIONS

(1) Each purchase of tickets for the fundraising event is a contribution to the committee from the purchaser and each expenditure of funds for the event by the committee, including the

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

awarding of prizes at the event, is an expenditure. Both the contributions and expenditures must be reported as such on the committee's campaign reports.

(2) The reasonable rental value of the home donated by the individual who is hosting the event plus any other costs paid by the host in connection with the event are contributions to the committee by the host.

(3) The committee may not receive individual contributions of \$100 or more, or make individual expenditures (including prizes awarded to attendees at the poker fundraiser) of \$100 or more, in cash.

(4) To the extent awarding the prizes to individual attendees at the poker fundraiser is a permissible use of campaign funds (see discussion below), all individual prizes valued at \$100 or more must be itemized as gifts and reported by the committee pursuant to Regulation 18421.7(a)(1).

FACTS

You are a representative of the campaign committee ("Quintana for Bell City Council 2013") of City of Bell City Councilmember Ana Maria Quintana. You indicate that a supporter of Ms. Quintana has asked to host, in the supporter's home, a poker fundraiser for Ms. Quintana's campaign committee. Individual tickets would be sold for the fundraiser, the attendees would play poker, and one-half of the proceeds would be awarded as prizes to attendees and the other one-half retained by the committee as campaign funds. You have asked which provisions of the Act would apply to such an event.

ANALYSIS

Reporting of Campaign Contributions and Expenditures

The Act requires campaign committees, including campaign committees such as Quintana for Bell City Council 2013, to periodically file campaign reports detailing information on contributions received and expenditures made by the committee. (See Sections 84100 – 84511.)

Section 82015(a) and Regulation 18215(a)(2) generally provide that a payment made to or at the behest² of a candidate or committee controlled by a candidate is a "contribution." Based on these provisions, any payments made to the Quintana for Bell City Council 2013 committee to purchase tickets to the poker fundraiser are contributions to the committee. In addition, anything provided of value or any other cost incurred in connection with the poker fundraiser by the individual who is providing his or her home for the fundraiser, including the reasonable

² A payment is made "at the behest" of a candidate or a candidate controlled committee when it is "made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of" the committee or candidate. (Regulation 18225.7.)

rental value of the home during the duration of the fundraiser, is a contribution from that individual to the committee.³

Section 82025 and Regulation 18225(a)(2) generally provide that a payment made by a candidate or committee controlled by a candidate is an “expenditure.” Therefore, based on these provisions, any costs incurred and paid by the committee in connection with the poker fundraiser, including the awarding of prizes of any value to attendees, are expenditures that must be reported by the committee.

Finally, the Act prohibits a committee from receiving a contribution or making an expenditure of \$100 or more in cash (Section 84300(a) and (b).) Thus, all contributions of \$100 or more received by the committee and expenditures (including prizes awarded to attendees) of \$100 or more made by the committee in connection with the poker fundraiser must not be in the form of cash.

Permissible Use of Campaign Funds

The Act generally permits a candidate controlled committee to spend campaign funds to make gifts so long as the expenditure is directly related to a political, legislative or governmental purpose. (Section 89513(f)(1).) You indicate that one-half of the contributions donated to the committee for the poker fundraiser will be used to award prizes to attendees at the fundraiser.

We assume the purpose for offering the prizes is to help generate interest in the fundraiser and thereby increase attendance (and thus the amount of funds ultimately raised for the committee’s future use) by not only providing a form of entertainment for the attendees but also giving each attendee the hope of winning something. If this is the case, we believe this use of campaign funds would be directly related to a political purpose and permissible under Section 89513(f)(1) so long as the prizes are distributed to serve this purpose, are not awarded to the candidate, committee officers, committee employees or their family members, and do not otherwise provide grossly disproportionate benefits to any individual attendee.

Itemized Reporting of Gifts Made with Campaign Funds

Section 84211(k) requires that each expenditure of \$100 or more by a committee be itemized on the committee’s campaign report and include the name and street address of the person to whom the expenditure is made, the amount of the expenditure, and a brief description of the consideration for which the expenditure was made. Regulation 18421.7(a)(1) elaborates

³ We note that Section 82015(f) provides that there is no contribution from an individual when the individual holds a fundraiser in his or her home and the costs of the event are \$500 or less. Also, the Commission has advised that the reasonable rental value of the home during the time of a fundraiser costing \$500 or less does not count toward the \$500 threshold. (*Olson* Advice Letter, A-97-590.) However, neither of these exceptions applies when the total cost of the fundraiser is over \$500. (Regulation 18215(c)(3); *Olson* Advice Letter, *supra*.) Here, we assume from the facts that, regardless of what the host may be spending, the committee itself will spend more than \$500 on the fundraiser, making the exception in Section 82015(f) inapplicable.

on the “brief description” requirement when the expenditure is a gift of campaign funds, generally requiring the committee to further detail the date of the gift, the nature of the gift, and the name of any individual who received the gift.⁴

As discussed above, we think that prizes awarded to attendees at the poker fundraiser are a gift of campaign funds for purposes of the Act. On this basis, the reporting requirements of Section 84211(k) and Regulation 18421.7(a)(1) apply to these prizes.⁵

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Scott Hallabrin
Counsel, Legal Division

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⁴ Other provisions of Regulation 18421.7 apply to meals and travel provided by campaign funds, so to the extent the meals or travel are gifts, the other provisions of Regulation 18421.7 apply and not those set forth in subdivision (a)(1) of the regulation.

⁵ In the *Rios* Advice Letter, No. I-08-159, we concluded that, for the purposes of Regulation 18421.7, a “gift” was any payment of campaign funds that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received. Therefore, we do not apply the Act’s exceptions to gifts in Section 82028 or in Commission regulations applicable to financial disclosure by and gift limits on public officials to the term “gift” in Regulation 18421.7. Furthermore, we do not offer an opinion in this letter as to whether a prize awarded to a public official as part of the poker fundraiser is a gift to the public official for purposes of the Act’s financial disclosure or gift limits.